THE HON'BLE SRI JUSTICE K.C.BHANU

WRIT PETITION No. 8639 of 2005

Date: 06.09.2005

Between:

Dr. B.Rajeswar Rao, s/o. B.Linga Murthy,
Chemist, Water Treatment Plant, 'C' Station,
Kothagudem Thermal Power Station,
Paloncha, Khammam district

…Petitioner

and

1)The Managing Director, A.P. Power Generation
Corporation Limited, Vidyutsoudha, Hyderabad
& another

…Respondents

ORDER:

Challenging the memos dated 22.11.2003 and 19.03.2005 issued by the second respondent and for direction to first respondent to sanction four advance increments from 30.04.1993 to 02.04.1998 for possessing Ph.D. qualification and continuation of two increments from 03.04.1998 in addition to the two advance increments granted

for possessing M.B.A. qualification to the petitioner, the present Writ Petition is filed.

The brief facts which are necessary for disposal of this Writ Petition are as follows:

The petitioner joined the respondents-corporation as Chemist in 1992 with Ph.D. qualification; subsequently, he acquired M.B.A. qualification in 1998; the respondents-corporation issued B.P.Ms. No.106, dated 16.02.1981 pursuant to G.O.Ms. No.89, dated 26.08.1980 providing advance increments for acquiring additional qualifications; thereafter, the respondents issued B.P.Ms. No.409, dated 09.05.1988 pursuant to G.O. Ms. No.182, dated 17.07.1987 for continuation of the advance increments; as the petitioner was entitled for grant of four increments as he was possessing Ph.D. degree at the time of his joining, he made a representation on 07.01.1994 for sanction of the same and after several reminders thereto, the General Manager (Admn.), A.P. Genco Limited, Hyderabad rejected his claim; the rejection is illegal in view of G.O. No.182 read with para 3(g) of B.P. Ms. No.409; the second respondent granted the increments to three juniors of the petitioner; hence, the Writ Petition.

Counter affidavit filed by the respondents contended that as per para 3(g) of B.P. Ms. No. 409, dated 09.05.1988, the orders shall not apply to those who acquired additional qualifications before 1st July, 1986; hence, there are no merits in this Writ Petition and the same is liable to be dismissed.

Heard the learned counsel for the petitioner and the learned standing counsel appearing for the respondents.

The learned counsel for the petitioner relying upon clause 3 (d) of B.P.Ms. No.409, dated 09.05.1988 contended that the petitioner is

entitled for grant of four advance increments and prayed to allow the Writ Petition. Whereas the learned standing counsel appearing for the respondents relying upon clause 3(g) of the said B.P.Ms. contended that since the petitioner has acquired additional qualification after 01.07.1986, he is not entitled for additional increments and hence, prayed to dismiss the Writ Petition.

It is not in dispute that as per B.P. Ms. No.106, dated 16.02.1981, an employee possessing or acquiring additional qualification, he is entitled for four advance increments with regard to Ph.D. degree. Clause 3(g) of the B.P. Ms. No.409, dated 09.05.1988 reads as follows:

"These orders shall not apply to those who acquired the additional qualifications before 01.07.1986".

Whereas clause (d), on which the learned counsel for the petitioner placed reliance, reads as follows:

> "The advance increments in the A.P.S.E. Board revised pay scales, 1986 issued in B.Ps. under reference 4th and 5th cited, will be admissible only to those who acquire the additional qualification after 01.07.1986. This will also be admissible to those recruited directly after 01.07.1986 if they possess the requisite additional qualifications at the time of their appointment".

In this case, admittedly, the petitioner was appointed as a Chemist in the year 1992, by which time he was having Ph.D. qualification. The impugned proceedings are based upon clause 3(g) of the said B.P. Ms. No.409. If these two clauses viz. 3(d) and 3(g), are read together in the position as they got to be, it is clear that these will apply under two circumstances viz. to the employees who recruited prior to 01.07.1986 and the such of those employees who acquire additional qualification like Ph.D. after 01.07.1986. The second class of employees is those who are possessing Ph.D. qualifications at the

time of their appointment after 01.07.1986. Therefore, if these two clauses are read together, it is very clear that the employees who were already in service and who acquire Ph.D. on or after 01.07.1986, are entitled for four advance increments. So also, it is clear that the employees who are recruited directly after 01.07.1986 possessing Ph.D. qualification at the time of their appointment, are also entitled for four advance increments. Therefore, the impugned order is not in accordance with the B.P. Ms. No.409, dated 09.05.1988 and the same is liable to be set aside.

Since the petitioner has been drawing two advance increments from 03.04.1998 for possession of M.B.A. qualification, he is entitled for four advance increments from 30.04.1993 to 02.04.1998 and thereafter two advancements in addition to the two advance increments being drawn by him. The respondents are directed to complete the process within a period of two months from the date of receipt of a copy of this order.

The Writ Petition is, accordingly, allowed. No costs.

(K.C.Bhanu, J.)

06.09.2005

DRK